Appendix

Statutes Involved

Relevant Provisions of Section 522 of The Tariff Act of 1930, as amended (U. S. C. Title 31 §372)

"Conversion of currency.

(a) Value of Foreign Coin Proclaimed by Secretary of Treasury.—The value of foreign coin as expressed in the money of account of the United States shall be that of the pure metal of such coin of standard value; and the values of the standard coins in circulation of the various nations of the world shall be estimated quarterly by the Director of the Mint and be proclaimed by the Secretary of the Treasury quarterly on the 1st day of January, April, July, and October in each year.

"(b) Proclaimed Value Basis of Conversion.—For the purpose of the assessment and collection of duties upon merchandise imported into the United States on or after June 17, 1930, wherever it is necessary to convert foreign currency into currency of the United States, such conversion, except as provided in subdivision (c), shall be made at the values proclaimed by the Secretary of the Treasury under the provisions of paragraph (a) of this section, for the quarter in which the merchandise was exported.

"(c) Market Rate When No Proclamation.—If no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate. If the date of exportation falls upon a Sunday or holiday, then the buying rate at noon on the last preceding business day shall be used. For the purposes of this subdivision such buying rate shall be the buying rate for cable transfers payable in the foreign currency so to be converted; and shall be determined by the Federal Reserve Bank of New York and certified daily to the Secretary of the Treasury, who shall make it public at such times and to such extent as he deems necessary.

In ascertaining such buying rate such Federal reserve bank may in its discretion (1) take into consideration the last ascertainable transactions and quotations, whether direct or through exchange of other currencies, and (2) if there is no market buying rate for such cable transfers, calculate such rate from actual transactions and quotations in demand or time bills of exchange. (June 17, 1930, c. 497, Title IV, §522, 46 Stat. 739.)"

Relevant Provisions Of Article 78 (L. 1937, Ch. 526) Of The New York Civil Practice Act

The relevant provisions of Sections 1283, 1284, 1285, 1286, 1288, 1289, 1293, 1295, 1300 and 1306 of Article 78 of (new) *Article 78*, (L. 1937, Ch. 526) of the New York Civil Practice Act, are as follows:

"§1283. *Classifications of certiorari to review, mandamus and prohibition abolished.* The classifications and writs and orders of certiorari to review, mandamus and prohibition are hereby abolished. The relief heretofore obtained by such writs or orders shall hereafter be obtained as provided in this article. Whenever in any statute reference is made to a writ or order of certiorari, mandamus or prohibition, such reference shall, so far as applicable, be deemed to refer to the proceeding authorized by this article. * * *"

"§1284. *Definitions.*

"1. The expression 'body or officer' includes every court, tribunal, board, corporation, officer, or other person, or aggregation of persons, whose action may be affected by the proceeding under this article."

"2. The expression 'to review a determination' refers to the relief heretofore available in a certiorari or a mandamus proceeding for the review of any act or refusal to act of a body or officer exercising judicial, quasi-judicial, administrative or corporate functions, which involves an exercise of judgment or discretion."

"3. The expression 'to compel performance of a duty specifically enjoined by law' refers to all other relief heretofore available in a mandamus proceeding."

"4. The expression 'to restrain a body or officer exercising judicial or quasi-judicial functions from proceeding without or in excess or jurisdiction' refers to the relief heretofore available in a prohibition proceeding."

"Nothing in this article shall be deemed to continue or establish distinct remedies."

"§1285. *When relief not available.* Except as otherwise expressly prescribed by statute, the procedure under this article shall not be available to review a determination in any of the following cases: * * *

"3. Where it does not finally determine the rights of the parties with respect to the matter to be reviewed.

"4. Where it can be adequately reviewed by an appeal to a court or to some other body or officer."

"§1286. *Limitations of time.* A proceeding under this article to review a determination or to compel performance of a duty specifically enjoined by law, must be instituted by service of the petition and accompanying papers, as prescribed in Section twelve hundred eighty-nine of this article, within four months after the determination to be reviewed becomes final and binding, upon the petitioner or the person whom he represents, either in law or in fact, or after the respondent's refusal, upon the demand of the petitioner or the person whom he represents, to perform his duty, as the case may be; * * *"

"§1288. *Application for relief by petition; contents.* The application for relief shall be founded upon a petition, verified as in an action, which shall contain a plain and concise statement of the material facts on which the petitioner relies, may be accompanied by affidavits and other written proof, and shall demand the relief to which the petitioner supposes himself entitled, in the alternative or otherwise."

"§1289. *Notice of application; service.* At least eight days' notice in writing of an application for relief under this article shall be served upon the respondent, unless a shorter time is prescribed by an order to show cause granted by the court to which application is made or a judge thereof. A copy of the petition and accompanying papers shall be served with the notice or order to show cause. Service shall be made in the manner provided for the personal service of a summons in an action, unless a different manner of service is provided by the order to show cause."

"§1293. *Objections in point of law.* The respondent may raise an objection in point of law warranting the dismissal of the petition, by setting the objection forth in his answer or by applying to the court on the return day for an order dismissing the petition as a matter of law. If the respondent intends to apply for such an order, he shall serve notice thereof upon the petitioner within the time allowed for answering. In the event of the denial of such application, the court may permit the respondent to answer, upon such terms as may be just. * * *"

"§1295. *Hearing upon the application.* Upon the return day of the application, if no triable issue of fact is duly raised by the pleadings and accompanying papers, the court shall forthwith render such final order as the case requires. * * *"

"§1300. *Final order.* The court shall render a final order granting the petitioner the relief to which it deems he is entitled, or dismissing the proceeding, either on the merits or with leave to renew. * * * The court may also award such restitution as may be just. In an appropriate case, the court may award the petitioner the damages which he has sustained."

"§1306. *Applicability of provisions governing actions.* Except as otherwise expressly or by plain implication prescribed by statute, the provisions of statute and rule applicable to practice or procedure in an action applied to the proceeding under this article so far as such provisions can be applied to its substance and subject matter without regard to its form."

Appendix.

Title 12, U. S. C., Section 341, provides as to the powers and duties of Federal Reserve Banks, the relevant provisions of which are as follows:

> "§341. *General enumeration of powers.* Upon the filing of the organization certificate with the Comptroller of the Currency, a Federal reserve bank shall become a body corporate, and as such, and in the name designated in such organization certificate, shall have power— * * * Fourth. To sue and be sued, complain and defend, in any court of law or equity."

The relevant provisions of Section 632, of Title 12, U. S. C. are as follows:

> "§632. * * *; Jurisdiction where Federal reserve bank a party. * * *
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> "Notwithstanding any other provision of law, all suits of a civil nature at common law or in equity to which any Federal Reserve bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits; and any Federal Reserve bank which is a defendant in any such suit may, at any time before the trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law. No attachment or execution shall be issued against any Federal Reserve bank or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. (Dec. 23, 1913, c. 6, §25 (b); June 16, 1933, c. 89, § 15, 48 Stat. 184.)"